

# Shainis & Peltzman, Chartered

Counselors at Law

Suite 290  
1901 I Street, N.W.  
Washington, D.C. 20036

(202) 293-0011  
Fax (202) 293-0810

Aaron H. Shainis  
Lee J. Peltzman

Of Counsel  
William H. BuRoss, III  
Ruth S. Baker-Battist  
Robert J. Keller

DOCKET FILE COPY ORIGINAL

July 29, 1998

RECEIVED

JUL 29 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie R. Salas, Esq.  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D. C. 20554

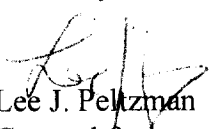
Re: Amendment of Section 73.202(b)  
FM Table of Allotments  
(Hamilton, Deer Lodge, and Shelby, Montana)

Dear Ms. Salas:

Transmitted herewith, on behalf of Marathon Media of Montana, L.P., licensee of Station KBMG(FM), Hamilton, Montana, and Robert C. Toole, licensee of Station KQRV(FM), Deer Lodge, Montana, is an original and four (4) copies of a petition seeking the institution of a rule making proceeding to substitute Channel 242C for Channel 240C3 at Hamilton, Montana; to substitute Channel 245C1 for Channel 243C2 at Deer Lodge, Montana; and to substitute Channel 244C1 for Channel 242C1 at Shelby, Montana.

Please contact the undersigned should the Commission have any questions with respect to this Petition for Rule Making.

Sincerely,

  
Lee J. Peltzman  
Counsel for

MARATHON MEDIA OF MONTANA, L.P.

Enclosure

No. of Copies rec'd 2+4  
List ABCDE

RECEIVED

JUL 29 1998

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
Table of Allotments )  
FM Broadcast Stations )  
(Hamilton, Deer Lodge, and Shelby, Montana) )

RM-\_\_\_\_\_

To: Chief, Policy and Rules Division

**PETITION FOR RULE MAKING**

Marathon Media of Montana, L.P., licensee of Station KBMG(FM), Hamilton, Montana, and Robert C. Toole, licensee of Station KQRV(FM), Deer Lodge, Montana (collectively "Petitioners"), by their attorneys, hereby seek the institution of a rule making proceeding to amend Section 73.202(b) of the Commission's rules to substitute Channel 242C for Channel 240C3 at Hamilton, Montana, and modify the license of KBMG(FM) to specify operation on Channel 242C,<sup>1</sup> substitute Channel 245C1 for Channel 243C2 at Deer Lodge, Montana, and

---

<sup>1</sup> Channel 242C may be allotted to Hamilton, Montana, at reference coordinates of 46 degrees, 48 minutes, 09 seconds North Latitude; 113 degrees, 58 minutes, 21 seconds West Longitude. The reference point coincides with the only existing tower site in the area meeting FCC spacing requirements. That site, which houses multiple antenna structures, was chosen to minimize environmental concerns and preserve the surrounding wilderness areas. Official notice is requested of the fact that the restricted area wherein a site must be located for the KBMG(FM) upgrade is virtually encompassed by national forests.

modify the license of KQRV(FM) to specify operation on Channel 245C1<sup>2</sup> and substitute Channel 244C1 for Channel 242C1 at Shelby, Montana, and modify the license of KZIN-FM to specify operation on Channel 244C1.<sup>3</sup>

The following changes are proposed to the FM Table of Allotments:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Hamilton, Montana	240C3, 251C3	242C, 251C3
Deer Lodge, Montana	243C2	245C1
Shelby, Montana	242C1, 250C	244C1, 250C

As stated in the attached Engineering Statement, prepared by D.L. Markley & Associates, Inc., Channel 242C can be substituted for Channel 240C3 at Hamilton, Montana, with a site restriction either north or west of town. If KBMG(FM) were to operate from its proposed reference point for Channel 242C, it would meet all spacing requirements and place a city grade signal over the community of Hamilton. Likewise, if Station KQRV(FM) were to operate on Channel 245C1 from its present transmitter site, it would meet all spacing requirements and also place a city grade signal over the community of Deer Lodge. Finally, if Station KZIN-FM were to operate on Channel 244C1 from its present tower, it would meet all spacing requirements and also place a city grade signal over the community of Shelby.

---

<sup>2</sup> Channel 245C1 may be allotted to Deer Lodge, Montana, at the present transmitter site for KQRV(FM) at 46 degrees, 06 minutes, 03 seconds North Latitude; 112 degrees, 57 minutes, 00 seconds West Longitude.

<sup>3</sup> Channel 244C1 may be allotted to Shelby, Montana, at the present transmitter site for KZIN-FM at 48 degrees, 19 minutes, 42 seconds North Latitude; 112 degrees, 02 minutes, 03 seconds West Longitude.

Further, as the attached Engineering Statement shows, the proposed upgrade would allow KBMG(FM) to greatly enhance its coverage area, resulting in a net gain in both the area and population served by the Station. Station KBMG(FM) currently provides service to 30,041 persons within a 7,661 square kilometer area within its 1.0 mV/m service contour. If the Station were upgraded and relocated to its reference site, the Station would serve 120,494 persons within a 25,322.3 square kilometer area, a population increase of over 400 percent. Station KQRV(FM) currently provides service to 53,310 persons within a 9,431.9 square kilometer area within its 1.0 mV/m service contour. If that Station were upgraded, it would serve 95,800 persons within a 17,171.7 square kilometer area, a population increase of 73 percent.

If this Petition is approved, Marathon Media of Montana, L.P., will file an application for a construction permit to implement the upgrade of Station KBMG(FM)'s facilities and will construct the facilities for the Station expeditiously following grant of its application. Similarly, if this Petition is granted, Robert C. Toole will file an application for a construction permit to implement his upgrade of Station KQRV(FM)'s facilities and will construct those facilities expeditiously following grant of that application. Marathon Media of Montana, L.P., will reimburse the licensee of Station KZIN-FM, Shelby, Montana, for its reasonable expenses resulting from the modification of its license to Channel 244C1.

Accordingly, Petitioners respectfully request that the Commission commence a rule making proceeding looking toward the substitution of Channel 242C for Channel 240C3 at Hamilton, Montana, and the modification of license of KBMG(FM) to specify operation on

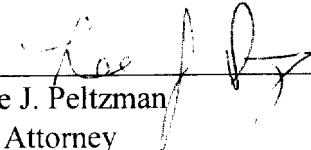
242C; the substitution of Channel 245C1 for Channel 243C2 at Deer Lodge, Montana, and the modification of license of KQRV(FM) to specify operation on Channel 245C1; and the substitution of Channel 244C1 for Channel 242C1 at Shelby, Montana, and the modification of license of KZIN-FM to specify optional on Channel 244C1.

Respectfully submitted,

MARATHON MEDIA OF MONTANA, L.P.

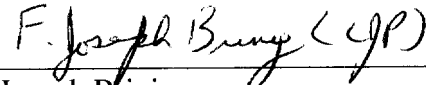
Shainis & Peltzman, Chartered  
1901 L Street, N.W. - Suite 290  
Washington, D.C. 20036  
202/293-0011

By:

  
\_\_\_\_\_  
Lee J. Peltzman  
Its Attorney

ROBERT C. TOOLE

By:

  
\_\_\_\_\_  
F. Joseph Brinig  
His Attorney

1427 Dolley Madison Boulevard  
McLean, VA 22101  
703/893-6616

July 26, 1998

**PETITION FOR RULEMAKING**

The following engineering statement and attached exhibits have been prepared for Marathon Media of Montana, L.P., licensee of FM broadcast station KBMG at Hamilton, Montana, and Robert Cummings Toole, licensee of FM broadcast station KQRV at Deer Lodge, Montana, and are in support of their Petition for Rulemaking to modify Section 73.202(b), Table of Allotments, of the Federal Communications Commission Rules and Regulations.

The petitioners request that the Table of Allotments be modified as follows:

<u>City</u>	<u>Existing</u>	<u>Proposed</u>
Hamilton, MT	240C3, 251C3	242C, 251C3
Shelby, MT	242C1, 250C	244C1, 250C
Deer Lodge, MT	243C2	245C1

As shown on the attached single channel spacing study, channel 242C may be allocated to Hamilton with a site restriction either north or west of town in order to meet the third adjacent channel spacing requirement to KQRV at Deer Lodge, MT. On the Hamilton spacing study, short spacings to KZIN-FM at Shelby, MT and KQRV at Deer Lodge, MT are indicated. These short spacings are eliminated when KZIN-FM is studied on channel 244C1 and KQRV is studied on channel 245C1. For the purposes of allocation, the reference coordinates for KBMG will be 46° 48' 09" North Latitude and 113° 58' 21" West Longitude for channel 242C at Hamilton, Montana.

Channel 245C1 may be allocated to Deer Lodge at the present site occupied by KQRV, and meet all spacing requirements. Since KQRV presently operates on channel 243C2, the proposed change to channel 245C1 would allow the opportunity for KQRV to upgrade their facilities. For the purposes of allocation, the reference coordinates will be 46° 06' 03" North Latitude and 112° 57' 00" West Longitude for channel 245C1 at Deer Lodge, Montana.

Channel 244C1 may be allocated to Shelby, MT at the current site occupied by KZIN-FM and meet all spacing requirements. Although KZIN-FM presently operates on channel 242C1, the proposed change to channel 244C1 would not preclude the opportunity for KQRV to upgrade their facilities as channel 244C would also work at the reference site for Shelby, Montana. For the purposes of allocation, the reference coordinates will be 48° 19' 42" North Latitude and 112° 02' 03" West Longitude for channel 244C1 at Shelby, Montana.

Although not indicated on the attached single channel spacing studies, all spacing requirements between channel 242C at Hamilton, MT, channel 245C1 at Deer Lodge, MT, and channel 244C1 at Shelby, MT will be met. The distance, according to the Commission's method between the reference site for KBMG at Hamilton, MT and KZIN-FM at Shelby, MT is 223.73 km, which meets the minimum spacing requirement of 105 km. For KBMG to KQRV, the distance by the FCC method is 110.70 km, which exceeds the minimum spacing of 105 km.

Finally, the spacing between KZIN-FM and KQRV is 257.18 km, which exceeds the FCC limit of 177 km.

The proposed upgrade contained in this petition would allow KBMG to enhance its coverage area. Currently there are 30,041 persons within the 1.0 mV/m service contour of KBMG. If relocated at the reference site, the total population within the 1.0 mV/m service contour of KBMG would be 120,494 persons. This is an increase of 90,453 persons or 401 percent. In addition, the present area served within the KBMG 1.0 mV/m service contour is 7661.5 square kilometers. With the higher class channel, 25322.3 square kilometers would be contained within the same contour. As a result, KBMG will be able to serve a much larger area, as well as a considerably larger population.

In addition to the gains made by KBMG under this proposal, KQRV would also experience similar gains. Currently the predicted population within the 1.0 mV/m service contour of KQRV is 55,310 persons. With the higher class channel, KQRV could serve 95,802 persons, which represents a gain of 73.2 percent. In addition, KQRV currently serves 9431.9 square kilometers within its 1.0 mV/m service contour. With the proposed upgrade, the coverage area would increase to 17171.7 square kilometers.



Since KQRV and KZIN-FM would not be required to re-locate as a result of this proposal, there would be no additional environmental impact from the construction of new transmitter sites.

Marathon Media of Montana, L.P. and Robert Cummings Toole will apply for their upgraded channels if allocated, and will construct the higher class facilities upon a construction permit grant by the Commission.

It is therefore it is respectfully submitted that the proposed change to the table of allotments is believed to be in the public interest as it is a more efficient use of the spectrum space, and permit the parties to increase their population served and enhance their respective coverage areas.

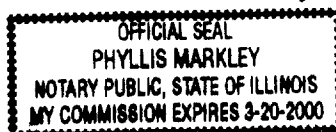
The preceding statement, and attached studies were prepared by me, or under my direction, and is true and accurate to the best of my belief and knowledge.

  
Jeremy D. Ruck, Consulting Engineer

Subscribed and sworn to before me this 28<sup>th</sup> day of July, 1998.

  
Notary Public

My Commission Expires:



Single Channel Study For: Hamilton, MT On Ch. 242 C - 96.3 Mhz.

States Searched: MT,WY,ID,ND,SD,AB,BC  
Run Date: 07-28-1998

46° 48' 09" N.  
113° 58' 21" W.

CHANNEL	ALLOTMENT OR STATION	CLASS	CALCULATED - KM. (MI.)	REQUIRED KM.	BEARING Deg. T.
239	NO CONFLICT				
240 KBMG	LIC Hamilton	MT C3*	66.78( 41.49)	96	197.50
240	USED Hamilton	MT C3*	66.78( 41.49)	96	197.50
241	NO CONFLICT				
242 KZIN-FM	LIC Shelby	MT C1*	223.73(139.02)	270	39.90
242	USED Shelby	MT C1*	223.73(139.02)	270	39.90
243	USED Deer Lodge	MT C2*	110.70( 68.79)	188	134.50
243 KQRV	LIC Deer Lodge	MT C2*	110.70( 68.79)	188	134.50
243	USED Lewiston	ID C1	234.90(145.96)	209	261.80
243 KOZE-FM	LIC Lewiston	ID C1	234.90(145.96)	209	261.80
244	NO CONFLICT				
245	NO CONFLICT				
295	NO CONFLICT				
296	NO CONFLICT				

\*--Short Spaced

Only listings with clearances less than 32 Km. are shown.

This study utilized a copy of the FCC FM Database obtained directly from the Federal Communications Commission. D. L. Markley & Associates, Inc. believes this information to be accurate and current. However, D. L. Markley & Associates, Inc. does not assume any responsibility for any erroneous or incomplete data furnished as part of that database.

Single Channel Study For: Deer Lodge, MT On Ch. 245 C1 - 96.9 Mhz.

States Searched: MT,WY,ID,ND,SD,AB,BC  
Run Date: 07-28-1998

46° 06' 03" N.  
112° 57' 00" W.

CHANNEL	ALLOTMENT OR STATION	CLASS	CALCULATED - KM. (MI.)	REQUIRED KM.	BEARING Deg. T.
242	NO CONFLICT				
243	USED Deer Lodge	MT C2*	0.00( 0.00)	79	180.00
243 KQRV	LIC Deer Lodge	MT C2*	0.00( 0.00)	79	180.00
244	USED Belgrade	MT C2	169.17(105.12)	158	106.00
244 KSCY	LIC Belgrade	MT C2	168.50(104.70)	158	105.70
245	NO CONFLICT				
246 KALS	LIC Kalispell	MT C	238.25(148.04)	209	333.80
246	USED Kalispell	MT C	238.25(148.04)	209	333.80
247	NO CONFLICT				
248	NO CONFLICT				
298	NO CONFLICT				
299	NO CONFLICT				

\*-Short Spaced

Only listings with clearances less than 32 Km. are shown.

This study utilized a copy of the FCC FM Database obtained directly from the Federal Communications Commission. D. L. Markley & Associates, Inc. believes this information to be accurate and current. However, D. L. Markley & Associates, Inc. does not assume any responsibility for any erroneous or incomplete data furnished as part of that database.

Single Channel Study For: Shelby, MT On Ch. 244 C1 - 96.7 Mhz.

States Searched: MT,WY,ID,ND,SD,AB,BC  
Run Date: 07-28-1998

48° 19' 42" N.  
112° 02' 03" W.

CHANNEL	ALLOTMENT OR STATION	CLASS	CALCULATED - REQUIRED KM. (MI.)	BEARING Deg. T.
241	NO CONFLICT			
242	KZIN-FM LIC Shelby	MT C1*	0.00( 0.00)	82 180.00
242	USED Shelby	MT C1*	0.00( 0.00)	82 180.00
243	NO CONFLICT			
244	NO CONFLICT			
245	NO CONFLICT			
246	NO CONFLICT			
247	NO CONFLICT			
297	NO CONFLICT			
298	NO CONFLICT			

\*-Short Spaced

Only listings with clearances less than 32 Km. are shown.

This study utilized a copy of the FCC FM Database obtained directly from the Federal Communications Commission. D. L. Markley & Associates, Inc. believes this information to be accurate and current. However, D. L. Markley & Associates, Inc. does not assume any responsibility for any erroneous or incomplete data furnished as part of that database.